

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL BRANNIGAN, Attorney-in-Fact for
Patient CM,

Plaintiff,

v.

EXCELLUS BLUE CROSS AND BLUE
SHIELD,

Defendant.

ORDER & AMENDED
SCHEDULING ORDER

22-CV-6151EAW

Plaintiff Michael Brannigan (“Brannigan”) having filed a motion for an extension of time to file expert reports (Docket # 52), defendant Excellus Blue Cross and Blue Shield (“Excellus”) having opposed the motion (Docket # 54), and Excellus having filed a motion to strike Brannigan’s expert disclosures (Docket # 53), Brannigan having opposed the motion (Docket # 58), and the parties having filed supplemental submissions (Docket ## 62-64), and this Court having reviewed the submissions and conducted oral argument on April 13, 2023, and June 1, 2023, it is hereby

ORDERED, for the reasons stated more fully on the record on April 13 and June 1, 2023, that Brannigan’s motion for an extension of time to file expert reports (**Docket # 52**) is **GRANTED**. Brannigan must serve, on or before **June 8, 2023**, the reports filed at Docket ## 62, 63 with Rule 26(a)(2)(B)(iv)-(vi) information appended. It is further

ORDERED, for the reasons stated more fully on the record on April 13 and June 1, 2023, that Excellus’ motion to strike Brannigan’s expert disclosures (**Docket # 53**) is **DENIED WITHOUT PREJUDICE**. It is further

ORDERED, for the reasons stated more fully on the record on April 13 and June 1, 2023, that Brannigan promptly reimburse Excellus' reasonable attorneys' fees and costs associated with the above-mentioned motion practice. It is further

ORDERED, for the reasons stated more fully on the record on April 13 and June 1, 2023, that the July 13, 2022 Scheduling Order (Docket # 44) is amended as follows:

1. Excellus shall identify any expert witnesses and provide reports pursuant to Fed. R. Civ. P. 26 by **July 20, 2023**. Parties shall complete all discovery relating to experts, including depositions, by **August 31, 2023**.

2. Dispositive motions, if any, shall be filed no later than **October 31, 2023**. Unless a consent to proceed before this Court has been filed, such motions shall be made returnable before Chief Judge Wolford.

3. A trial date status conference pursuant to Fed. R. Civ. P. Rule 16(e) and Local Rule 16 will be held, if necessary, at a date and time to be determined by the trial judge after determination of dispositive motions. If no dispositive motions are filed, counsel shall **immediately** contact the trial judge so that a trial date status conference can be scheduled.

At least seven (7) days prior to the trial date status conference, the parties shall file a joint case status report setting forth the information described below. If the parties disagree as to the information to be provided, the report must set forth their different responses. The joint status report shall contain:

- (1) Nature of the Case: Set forth a brief description of the action, identifying the parties, all counsel of record, the relief requested, any affirmative defenses and any relationship the case may have to other pending actions.

- (2) Motion Practice: Are any motions, dispositive or non-dispositive, pending? If so, briefly describe the motion. Explain if additional motion practice is necessary before the matter is ready to be tried.
- (3) Settlement: Describe the status of settlement negotiations. If the parties believe a court supervised settlement/mediation conference would be of assistance in resolving the case or narrowing disputed issues, please state.
- (4) Trial: State whether the case is ready for trial. If not, explain why. Set forth an estimate of how long the trial will take and whether the case is jury or non-jury.

No extension of the above cutoff dates will be granted except upon written application, made prior to the cutoff date, showing good cause for the extension. Application for extensions should be made to the Magistrate Judge. Joint or unopposed requests to extend the deadlines set forth in this order need not be made by formal motion, but rather may be sought in a letter to the court. Letter requests must detail good cause for the extension and propose new deadlines.

IT IS SO ORDERED.

s/Marian W. Payson
MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
June 2, 2023